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15 Archon Corporation

16 **UNITED STATES DISTRICT COURT**

17 **DISTRICT OF NEVADA**

18 ARCHON CORPORATION, a Nevada  
19 corporation,

20 Plaintiff and Counterdefendant,

21 vs.

22 SRC 1, LLC, a Nevada limited liability  
23 company, and NOEL BOWMAN, an  
24 individual,

25 Defendants and Counterclaimants,

26 SRC 1, LLC, a Nevada limited liability  
27 company,

28 Third-Party Plaintiff,

29 vs.

30 CHRISTOPHER LOWDEN, an individual;  
31 HAROLD GRAY, an individual; STONEY'S  
32 ENTERTAINMENT, INC., a Nevada  
33 corporation; and ROCKIN' INDUSTRIES,  
34 LLC, a Nevada limited liability company,

35 Third-Party Defendants.

36 Case No. 2:14-cv-01156-JAD-GWF

37 **STIPULATION AND ORDER  
38 FOR PERMANENT INJUNCTION  
39 AND TRANSFER OF DOMAIN NAME**

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43 **LEWIS ROCA  
44 ROTHGERBER**

45 Pursuant to Federal Rule of Civil Procedure 65, Plaintiff and Counterdefendant Archon  
46 Corporation ("Archon"), on the one hand, and Defendants and Counterclaimants SRC 1, LLC  
47 ("SRC") and Noel Bowman ("Bowman") (together the "SRC Parties"), hereby agree and stipulate

1 as follows:

2       **I.       Findings of Fact**

3       1.       The parties have agreed to settle this action and have entered into a confidential  
4 written settlement agreement under which the SRC Parties have agreed to permanently cease and  
5 desists from any and all use in commerce of the STONEY'S ROCKIN' COUNTRY trademark;

6       2.       In 2006, Chris Lowden ("Mr. Lowden") and Harold K. Gray ("Mr. Gray") formed  
7 SRC Nightclub & Grill, LLC ("SRC-NG");

8       3.       In August, 2007, SRC-NG began using the STONEY'S ROCKIN' COUNTRY  
9 trademark in commerce in connection with the operation of a nightclub and bar located at 9151 S.  
10 Las Vegas Boulevard, Suite 300, Las Vegas, Nevada 89123;

11       4.       SRC-NG subsequently assigned its trademark rights and accompanying goodwill in  
12 and to the STONEY'S ROCKIN' COUNTRY trademark to Rockin' Industries, LLC ("Rockin'");

13       5.       Rockin' licensed SRC to use the STONEY'S ROCKIN' COUNTRY trademark in  
14 commerce in connection with the advertising, promotion, and operation of a bar and nightclub  
15 located at 6611 Las Vegas Boulevard, Suite 160, Las Vegas, Nevada 89119 (the "Town Square  
16 Location");

17       6.       Bowman registered the <stoneysrockingcountry.com> domain name with  
18 GoDaddy.com, Inc. for SRC's use in connection with the advertising, promotion, and operation of  
19 the Town Square Location;

20       7.       Rockin' subsequently assigned all of its rights in and to the STONEY'S ROCKIN  
21 COUNTRY mark and the accompanying goodwill to SFHI, a Nevada corporation, Vantage  
22 Capital, LLC, a Nevada limited liability company, Jennifer Lowden, and Paul Lowden, IV (the  
23 "SFHI Parties");

24       8.       The SFHI Parties subsequently assigned all of their rights in and to the STONEY'S  
25 ROCKIN COUNTRY mark and all accompanying goodwill to Archon;

26       9.       Archon thus acquired ownership of, and all rights in, and goodwill associated with,  
27 the STONEY'S ROCKIN' COUNTRY trademark;

28       10.      Accordingly, Archon is the lawful owner of the STONEY'S ROCKIN' COUNTRY

1 trademark, including all goodwill associated therewith, for use in connection with nightclubs,  
 2 entertainment in the nature of live musical performances, and bar services;

3 11. Archon's rights in the STONEY'S ROCKIN' COUNTRY trademark are valid and  
 4 subsisting, and have not been abandoned, cancelled, revoked or otherwise narrowed in scope;

5 12. On June 18, 2014, Archon terminated SRC's license to use the STONEY'S  
 6 ROCKIN' COUNTRY trademark in connection with the advertising, promotion, and operation of  
 7 the Town Square Location; and

8 13. Notwithstanding Archon's termination of the license, SRC and Bowman continued  
 9 to use the STONEY'S ROCKIN' COUNTRY trademark in connection with the advertising,  
 10 promotion, and operation of the Town Square Location and in connection with the  
 11 <stoneysrockingcountry.com> domain name.

12 **II. Conclusions of Law**

13 14. Archon has alleged meritorious claims against the SRC Parties for unfair  
 14 competition under the Lanham Act, 15 U.S.C. § 1125(a), trademark infringement under Nevada  
 15 law, pursuant to N.R.S. § 600.420, and cybersquatting under the Lanham Act, 15 U.S.C.  
 16 § 1125(d), based upon the SRC Parties' registration and use of the  
 17 <www.stoneysrockingcountry.com> domain name;

18 15. Archon has suffered irreparable injury to its valuable STONEY'S ROCKIN'  
 19 COUNTRY trademark and associated goodwill, and will continue to suffer such irreparable injury  
 20 if the SRC Parties are not permanently enjoined;

21 16. As a direct and proximate result of the SRC Parties' conduct, Archon has suffered,  
 22 and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and  
 23 goodwill;

24 17. The balance of hardships tips in favor of Archon; and

25 18. Entry of a permanent injunction is in the public interest.

26 **III. Permanent Injunction**

27 19. Pursuant to 15 U.S.C. § 1116 and N.R.S. § 600.430(2)(a), and subject to the  
 28 confidential settlement agreement entered into between the parties, SRC and Bowman, along with

1 their respective officers, agents, servants, employees, attorneys, and all persons, corporations,  
2 business entities, and other associations of persons who are in active concert or participation with  
3 Defendants (the “Restrained Parties”), are hereby permanently enjoined and restrained from:

4 a. Using the STONEY’S ROCKIN’ COUNTRY mark, or any confusingly  
5 similar variations thereof, whether alone or in combination with any other letters, words,  
6 letter strings, phrases or designs in commerce in connection with nightclubs, entertainment  
7 in the nature of live musical performances, or bar services, including without limitation, on  
8 any website, in any domain name, in any social network user name, in any hidden website  
9 text, or in any website metatag; or in connection with any advertising or marketing for  
10 nightclubs, entertainment in the nature of live musical performances, or bar services,  
11 including without limitation, on Facebook, Twitter, Instagram, Pinterest, and all other  
12 forms of social media whether new or existing;

13 b. Seeking to register the STONEY’S ROCKIN’ COUNTRY mark, or any  
14 confusingly similar variations thereof, whether alone or in combination with any other  
15 letters, words, letter strings, phrases or designs with the United States Patent and  
16 Trademark Office (the “USPTO”) or with any State or political subdivision of any State for  
17 use in connection with nightclubs, entertainment in the nature of live musical  
18 performances, or bar services;

19 c. Filing any opposition or cancellation proceeding with the USPTO or with  
20 any State or political subdivision of any State seeking to oppose or cancel any registration  
21 for the STONEY’S ROCKIN’ COUNTRY mark;

22 d. Engaging in any false or misleading advertising or commercial activities  
23 likely to deceive consumers into believing that SRC and/or Bowman is affiliated with  
24 Archon or that any of SRC’s and/or Bowman’s goods or services are sponsored by, or  
25 approved by Archon; and

26 e. Registering, trafficking in, or using any domain name that contains the  
27 STONEY’S ROCKIN’ COUNTRY mark, or any confusingly similar variations thereof,  
28 whether alone or in combination with any other letters, words, letter strings, phrases or

1 designs.

2 **IV. Transfer of Domain Name**

3 20. Pursuant to 15 U.S.C. § 1125(d)(1)(C) Bowman shall transfer ownership of the  
4 registration for the <stoneyssrockingcountry.com> domain name to Archon.

5 **IT IS SO AGREED AND STIPULATED:**

6 LEWIS ROCA ROTHGERBER LLP

JK LEGAL CONSULTING, LLC

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13 Archon Corporation and for Third-Party  
Defendants Christopher Lowden, Harold Gray,  
Stoney's Entertainment, Inc., and Rockin'  
Industries, LLC

14 Attorneys for Defendant, Counterclaimant, and  
15 Third-Party Plaintiff SRC 1, LLC and for  
16 Defendant and Counterclaimant Noel Bowman

17 **IT IS SO ORDERED:**

18   
19 UNITED STATES DISTRICT JUDGE

20 DATED: April 24, 2015

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**LEWIS ROCA  
ROTHGERBER**